

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: City Development Department, Planning Division

AGENDA DATE: Introduction: January 8, 2013
Public Hearing: January 29, 2013

CONTACT PERSON/PHONE: Michael McElroy, 915-541-4238, mcelroyms@elpasotexas.gov

DISTRICT(S) AFFECTED: 4

SUBJECT:

An Ordinance changing the zoning of real property known as Being all of Lots 1 and 15, Save and Except two Portions Thereof, Block 3, and Lots 2 through 14, Block 3, WFF Industrial Park Unit One Replat "A", City of El Paso, El Paso County, Texas from M-1 (Manufacturing) to C-4 (Commercial). The penalty is as provided for in Chapter 20.24 of the El Paso City Code. Subject Property: East of Railroad Drive and South of Farah Drive. Property Owner: DBB Holdings, Inc. PZRZ12-00027 **(District 4) THIS IS AN APPEAL CASE.**

BACKGROUND / DISCUSSION:

This case originally appeared before the CPC as ZON09-00094 on February 11, 2010. A rezoning to C-3 was approved by CPC with the condition that all residential uses were restricted and that a TIA be submitted and approved before any building permits were issued. The applicant withdrew the application on April 27, 2010 before it was heard at City Council.

Included in this package is a revised staff report which includes EPDOTs denial recommendation, based upon their analysis of the submitted traffic impact analysis completed after the scheduled CPC hearing.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

City Plan Commission (CPC) – Denial Recommendation (5-2)

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD:

Mathew S. McElroy
Director, City Development Department



APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING OF REAL PROPERTY KNOWN AS BEING ALL OF LOTS 1 AND 15, SAVE AND EXCEPT TWO PORTIONS THEREOF BLOCK 3, AND LOTS 2 THROUGH 14, BLOCK 3, WFF INDUSTRIAL PARK UNIT ONE REPLAT "A", CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM M-1 (MANUFACTURING) TO C-4 (COMMERCIAL). THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the zoning of *real property known as being all of Lots 1 and 15, save and except two portions thereof Block 3, and Lots 2 through 14, Block 3, WFF Industrial Park Unit One Replat "A", City of El Paso, El Paso County, Texas*, and as more particularly described by metes and bounds on the attached Exhibit "A", incorporated by reference, be changed from **M-1 (MANUFACTURING) TO C-4 (COMMERCIAL)**, within the meaning of the zoning ordinance, and that the zoning map of the City of El Paso be revised accordingly.

PASSED AND APPROVED this _____ day of _____, 2013.

THE CITY OF EL PASO

ATTEST:

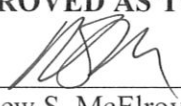
John F. Cook
Mayor

Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:

Karla M. Nieman
Assistant City Attorney

APPROVED AS TO CONTENT:



Mathew S. McElroy, Director
City Development Department

EXHIBIT "A"

2110-0291

PROPERTY DESCRIPTION

Description of a 0.0897 acre parcel of land being a portion of Lot 1, Block 3, WFF Industries Park, Unit One - Replat "A", City of El Paso, El Paso County, Texas, and being more particularly described by notes and bounds as follows to wit;

Starting at the most Southwesterly corner of Lot 1, Block 3, WFF Industries Park Unit One - Replat "A", said point also being the "TRUE POINT OF BEGINNING"

Thence North 28 26'00" East along the Easterly right-of-way line of Railroad Drive, a distance of 85.00 feet to a point;

Thence South 81 34'00" East a distance of 120.16 feet to a point;

Thence North 89 58'41" West along the Southerly boundary line of Lot 1, Block 3, WFF Industries Park, Unit One - Replat "A", a distance of 138.81 feet back to the "TRUE POINT OF BEGINNING" and said parcel containing in all 3,905.20 square feet or 0.0897 acres of land more or less.

EXHIBIT "A"

2110-0580

EXHIBIT "A"

016330

11243075

5.00

104

STATE OF TEXAS)
COUNTY OF EL PASO)

PARTIAL RELEASE OF LIEN

KNOW ALL MEN BY THESE PRESENTS: For and in consideration of the sum of TEN DOLLARS (\$10.00) cash to it paid by SIERRA PROPERTIES, INC., to SECURITY PACIFIC BANK WASHINGTON, N.A., a national banking association, (successor in interest to RAINIER NATIONAL BANK, a national banking association), and other good and valuable consideration, the receipt of which is hereby acknowledged and confessed, SECURITY PACIFIC BANK WASHINGTON, N.A., does hereby release that certain Deed of Trust, Security Agreement, Financing Statement and Assignment of Rent dated February 26, 1988, granted by SIERRA PROPERTIES, INC., to PAUL H. AMIEL, Trustee for RAINIER NATIONAL BANK of record in Book 1898, Page 846, in the Official Public Records of Real Property, El Paso County, Texas; and modified in Modification and Confirmation of Deed of Trust, Security Agreement, Financing Statement and Assignment of Rentals dated June 27, 1988, of record in Book 1947, Page 1136, Official Public Records of Real Property, El Paso County, Texas; securing payment of that certain promissory note in the original principal sum of \$4,500,000.00 dated February 26, 1988, payable by SIERRA PROPERTIES, INC. and WM. F. FARAH to SECURITY PACIFIC BANK WASHINGTON, N.A., a national banking association; as the same pertains to the following described property, to wit:

Lots 16-19, Block 3, WFF INDUSTRIAL PARK UNIT 1 REPLAT "A", an Addition to the City of El Paso, El Paso County, Texas, according to the Map thereof on File in Book 58, Page 64, Plat Records of El Paso County, Texas;

Lots 20 through 26, and the southerly 45.92 feet of Lot 27, WFF INDUSTRIAL PARK UNIT 2, an Addition to the City of El Paso, El Paso County, Texas, according to the Map thereof on File in Book 58, Page 65 and 65A, Plat Records of El Paso County, Texas; and

A parcel of land being a portion of Lot 15, Block 3, W.F.F. INDUSTRIES PARK UNIT 1, REPLAT "A," City of El Paso, El Paso County, Texas, and being more particularly described by metes and bounds as follows:

Commencing for reference at the westerly common corner of Lots 15 and 16 of said Block 3, same corner being on the east right-of-way line of Railroad Drive and being on the centerline of a 30 foot wide railroad easement as shown on said W.F.F. Industries plat;

Thence, with said east right-of-way line of Railroad Drive, South 28°26'00" West 15.00 feet to the POINT OF BEGINNING of the herein described parcel of land;

Thence, with the southerly right-of-way line of said 30 foot wide railroad easement, the following two courses:

- 1) South 61°34'00" East 9.80 feet; and,
- 2) 163.97 feet along the arc of a curve to the right whose central angle is 25°34'53", whose radius is 367.25 feet and whose chord bears South 48°46'34" East 162.61 feet;

Thence, North 61°34'00" West 163.38 feet to the east right-of-way line of said Railroad Drive;

Thence, with the east right-of-way line of Railroad Drive, North 28°26'00" East 36.00 feet to the POINT OF BEGINNING and containing 4197 square feet or 0.0964 acres.

Said Deed of Trust, Security Agreement, Financing Statement and Assignment of Rent and Modification and Confirmation of Deed of Trust, Security Agreement, Financing Statement and Assignment of Rent liens shall remain in full force and effect as to all other

2118 0222

MEMORANDUM

DATE: December 28, 2012

TO: The Honorable Mayor and City Council
Joyce A. Wilson, City Manager

FROM: Michael McElroy, Planner

SUBJECT: PZRZ12-00027

The City Plan Commission (CPC), on December 13, 2012, voted 5-2 to recommend **denial** of rezoning the subject property from M-1 (Manufacturing) to C-4 (Commercial).

The CPC found that the rezoning is not in conformance with Plan El Paso. The CPC also determined that the rezoning does not protect the best interest, health, safety and welfare of the public in general; that the proposed use is not compatible with adjacent land uses; and the rezoning will have negative effects on the natural environment, social economic conditions, and property values in the vicinity and the city as a whole.

There were no communications in support or opposition to this request.

Attachment:
Appeal Letter
Revised Staff Report

ATTACHMENT 1: APPEAL LETTER

CITY CLERK DEPT.

2012 DEC 20 PM 5:17

APPEAL TO THE CITY COUNCIL

DATE: 12/18/12

HONORABLE MAYOR AND CITY COUNCIL
CITY OF EL PASO, TEXAS

DEAR MAYOR AND COUNCIL:

After a public hearing held on December 13,, 2012, the

City Plan Commission denied my request for

Rezoning from M-1 to C-4 to allow Commercial and Multi-Family

development. (Case No. PZRZ12-00027)

legally described as:

Being all of Lots 1 and 15, Save and Except two Portions Thereof attached
Hereto Block 3, and Lots 2 through 14, Block 3, WFF Industrial Park Unit
One Replat "A", City of El Paso, El Paso County, Texas

I hereby request the City Council to review the decision of the Rezoning

Case No. PZRZ12-00027 AND CONSIDER MY REQUEST

SET OUT ABOVE. I AM ATTACHING A LETTER SETTING FORTH MY

REASONS FOR BELIEVING THEIR DECISION TO BE IN ERROR.

DBB Holdings, Inc. c/o Conde, Inc.

APPLICANT

6080 Surety Drive, Ste. 100

ADDRESS

(915) 592-0283

TELEPHONE NUMBER

Two (2) copies filed in City Clerk's Office on:

ATTACHMENT 1: APPEAL LETTER (CONTINUED)

CITY CLERK DEPT.

2012 DEC 20 PM 5:17

DBB HOLDINGS, INC.

P.O. Box 18087, Reno, NV 89511
5365 Mae Anne Ave., Suite B14, Reno, NV 89523
775-624-8429 Phone
775-636-6619 Fax

December 20, 2012

Conde Inc.
6080 Surety Drive, Suite 100
El Paso, TX 79905

RE: Rezoning of 14 acres on Railroad Drive

Conrad;

As owners of this 14 acre property we now see that the Planning Commission has rejected our request to change the zoning of this property from M1 to C4. Therefore we are requesting that you file an appeal with the City Council to overturn this decision. The Planning Commission decision is unjust and discriminatory due to the fact that there are three other parcels along the same stretch of road that have been rezoned to R4. Our attorney will be involved with this appeal and beyond to a law suit if necessary. A reversal of this decision by the City Council will ultimately save the City of El Paso time and money and accomplish what is right for the property.

Sincerely,

DBB Holdings Inc.



Ken Stoner, Supervisor



City of El Paso – City Plan Commission Staff Report
REVISED

Case No: PZRZ12-00027
Application Type: Rezoning
CPC Hearing Date: December 13, 2012
Staff Planner: Michael McElroy, 915-541-4238, mcelroyms@elpasotexas.gov
Location: East of Railroad Drive and South of Farah Drive
Legal Description: Being all of Lots 1 and 15, Save and Except two Portions Thereof attached Hereto Block 3, and Lots 2 through 14, Block 3, WFF Industrial Park Unit One Replat "A", City of El Paso, El Paso County, Texas
Acreage: 13.85 acres
Rep District: 4
Zoning: M-1 (Manufacturing)
Existing Use: Vacant
Request: C-4 (Commercial)
Proposed Use: Commercial and Multi-Family Development
Property Owner: DBB Holdings, Inc.
Representative: Conde, Inc.

SURROUNDING ZONING AND LAND USE

North: M-1 (Manufacturing) / Industrial cold storage
South: M-1/sp (Manufacturing/Special permit) and R-F (Ranch-Farm) / Cell tower & vacant
East: Fort Bliss / Shooting range
West: M-1 (Manufacturing) and R-5 (Residential) / Manufacturing & Single-family homes

Plan El Paso Designation: G7, Industrial and/or Railyards (Northeast)

Nearest Park: Summerlin Park (3,929 ft.)

Nearest School: Desertaire Elementary (5,703 ft.)

NEIGHBORHOOD ASSOCIATIONS

None

CASE HISTORY

This case originally appeared before CPC as ZON09-00094 on February 11, 2010. A rezoning to C-3 was approved by CPC with the condition that all residential uses were restricted and that a TIA be submitted and approved before any building permits were issued. The applicant withdrew the application on April 27, 2010 before it was heard at City Council.

NEIGHBORHOOD INPUT

Notices of the November 1, 2012 public hearing were mailed to all property owners within 300 feet of the subject property on October 10, 2012. The Planning Division received no communications in support or opposition to the request.

APPLICATION DESCRIPTION

The applicant is requesting a rezoning of the subject property to from M-1 to C-4 to permit the construction of 15 apartment buildings and a single stand-alone retail building.

PLANNING DIVISION RECOMMENDATION

The Planning Division recommends **denial** of the rezoning as the applicant's request is not compatible with the surrounding land use and the future land use map.

Plan El Paso- Future Land Use Map Designation

All applications for rezoning shall demonstrate compliance with the following criteria:

G-7 – Industrial and/or Railyards: This sector applies to industrial parks, large free-standing industrial uses, refineries, non-military airfields, trucking terminals, and mines, all on large tracts in areas dominated by vehicles. This sector is essential to El Paso's economy; however, when an industrial use becomes obsolete, there can be potential for mixed use redevelopment of the site. This sector also includes the existing rail yards which could be redeveloped as mix-use communities if the rail yards were moved out of town.

The purpose of the C-4 (Regional Commercial District) district is intended to serve the entire City to permit heavy commercial uses characterized by automotive and light warehousing. Provide a transition from general business areas to industrial and manufacturing uses, and to accommodate major locations of commerce, service and employment activities. Within the Central Business District, more intensive commercial uses are allowed, the predominant of which are retail trade and service uses, providing less restrictive height and area regulations.

COMMENTS:

City Development Department - Planning Division - Transportation

1. A TIA is required for the proposed development due to the increase in traffic generated by commercial development compared to the uses permitted in the existing M-1 (light manufacturing) zoning district.

Notes:

1. Access and improvements to Dyer shall be coordinated with TxDOT.
2. All proposed paths of travel (accessible sidewalks, wheelchair access curb ramps and driveways) located within public rights-of-way shall be constructed in compliance with the current ADA/TAS regulations and City Design Standards for construction.

El Paso Department of Transportation

Recommend Denial

Figure 3.2:

Pass-by percentage trip reduction does not apply to development drive way volumes. The full trip generated traffic should be analyzed at site driveways. The pass-by reduction will only affect the amount of traffic at non-driveway intersections within the study area.

Table 4-8:

Intersection 1 will require mitigation per 19.18

Table 5-3 to 5-6:

Segment analysis shows unusual results for the comparison of no-build vs full build scenarios.

Construction of left turns bays into the site to be completed as part of development improvements.

Sun Metro

Sun Metro does not oppose this request.

El Paso Water Utilities

We have reviewed the zoning change request described above and provide the following comments:

Along the easternmost portion of the subject Property there is an existing twenty-one (21) inch diameter pressurized sanitary sewer main (force main) located within an easement. Immediately east of this main, within the Southern Pacific Railroad Company right-of-way, there is a second twenty-one (21) inch diameter force main. Both force mains are further described under the sanitary sewer portion of these comments.

EPWU does not object to the proposed development; however, EPWU-PSB requires for the proposed sound barrier wall shown to be constructed along the easternmost boundary line of the subject Property (along the boundary line common to the Southern Pacific Railroad Company Right-of-Way and WFF Industries Park Unit One Replat "A") to be placed five (5) feet west of the westernmost easement line pertaining to the twenty (20) foot wide Public Service Board (PSB) Easement. EPWU-PSB does not allow structures within the PSB Easement.

Water

Along Railroad Drive fronting the subject Property there is an existing twelve (12) inch diameter water main.

Previous water pressure readings conducted on fire hydrant number 7572 located along Railroad Drive at approximately 1,180 feet south of Farah Drive have yielded a static pressure of 67 pounds per square inch (psi), residual pressure of 62 psi, discharge of 1,256 gallons per minute (gpm).

Sanitary Sewer

Within the easternmost portion of the subject Property there is an existing twenty-one (21) inch diameter pressurized sanitary sewer main (force main). This main is located within the twenty (20) foot wide Public Service Board (PSB) Easement as depicted by WFF Industries Park Unit One Replat "A" subdivision plat drawing. As per the El Paso Water Utilities – Public Service Board (EPWU-PSB) Records, the force main is located at approximately fifty-five (55) feet west of the center line of the Southern Pacific Railroad Company Right-of-Way or at approximately five (5) feet west of the boundary line common to the Southern Pacific Railroad Company Right-of-Way and WFF Industries Park Unit One Replat "A". The alignment of this force main is parallel to the boundary line common to the Southern Pacific Railroad Company Right-of-Way and WFF Industries Park Unit One Replat "A".

Immediately east of the above-described force main, there is another existing twenty-one (21) inch diameter pressurized sanitary sewer main (force main). This second force main is located within the Southern Pacific Railroad Company Right-of-Way. As per EPWU-PSB Records, the force main is located at approximately 47.5 feet west of the center line of the Southern Pacific Railroad Company Right-of-Way. The alignment of this second force main is parallel to the boundary line common to the Southern Pacific Railroad Company Right-of-Way and WFF Industries Park Unit One Replat "A".

No direct service connections are allowed to the 21-inch diameter force mains.

The El Paso Water Utilities – Public Service Board (EPWU-PSB) requires a complete set of improvement plans, and grading plans pertaining to this Property for review and approval prior to any work pertaining to the portion of this property where the above-described twenty (20) foot wide Public

Service Board (PSB) Easement is located. This is required in order to ascertain that the proposed improvements and/or grading will not adversely affect both of the above-described force mains.

Along Railroad Drive fronting the subject Property there is an existing twelve (12) inch diameter sanitary sewer main.

General

Water and sanitary sewer service is available from the mains that extend along Railroad Drive.

Easements within the subject Property will be required if the development requires the extension of water and sanitary sewer mains to serve this Property.

All easements dedicated for public water and/or sanitary sewer facilities are to comply with EPWU-PSB Easement Policy.

The proposed private streets are required to be designated full-width utility easements in order to enable the construction, operation, maintenance, and, repair of the proposed water and sanitary sewer mains.

Easement grantor shall indemnify, defend, and hold harmless the El Paso Water Utilities – Public Service Board from and against any and all claims, liability, actions, and damages for bodily injury and property damage to third parties or to the El Paso Water Utilities – Public Service Board which may be caused by or arise out of the maintenance and existence of said water and sanitary sewer mains in the easement area.

The alignment and location of the proposed EPWU-PSB easement shall enable the placement of water meters outside of the parking areas and minimize the length of services. No vehicular traffic is allowed over the water meters. EPWU-PSB requires access to the proposed water, sanitary sewer facilities, appurtenances, and meters within the easement 24 hours a day, seven (7) days a week.

No building, reservoir, structure or other improvement, other than asphaltic paving (HMAC), shall be constructed or maintained on the above referenced El Paso Water Utilities - Public Service Board Easements (EPWU-PSB easements) without the written consent of EPWU-PSB.

The PSB easement shall be improved to allow the operation of EPWU maintenance vehicles.

Proposed surface improvements such as paving, landscaping, other types of low maintenance surfacing shall be reviewed for approval by EPWU-PSB.

Use of low maintenance easement surface improvements is required. The Owner of the property is responsible for maintenance of the easement surface; surface maintenance is not the responsibility of EPWU-PSB.

EPWU-PSB requests the Developer to refrain from constructing rock walls or any structure that will interfere with the access to the PSB easements.

EPWU-PSB requests the Developer to refrain from constructing signs within the PSB easements.

All proposed buildings shall comply with EPWU-PSB Easement Policy. Buildings shall be located 5 feet away from the easement line.

EPWU requires a new service application to initialize design of the water and sanitary sewer main extensions to serve the subject property. New service applications are available at 1154 Hawkins, 3rd Floor. The following items are required at the time of application: (1) hard copy of subdivision plat; (2) finalized set of street improvement plans, including storm sewer; (3) digital copy of subdivision plat; (4) benchmark check; and (5) construction schedule. Service will be provided in accordance with the current EPWU – PSB Rules and Regulations. The owner is responsible for the costs of any necessary on-site and off-site extensions, relocations or adjustments of water and sanitary sewer lines and appurtenances.

CITY PLAN COMMISSION OPTIONS

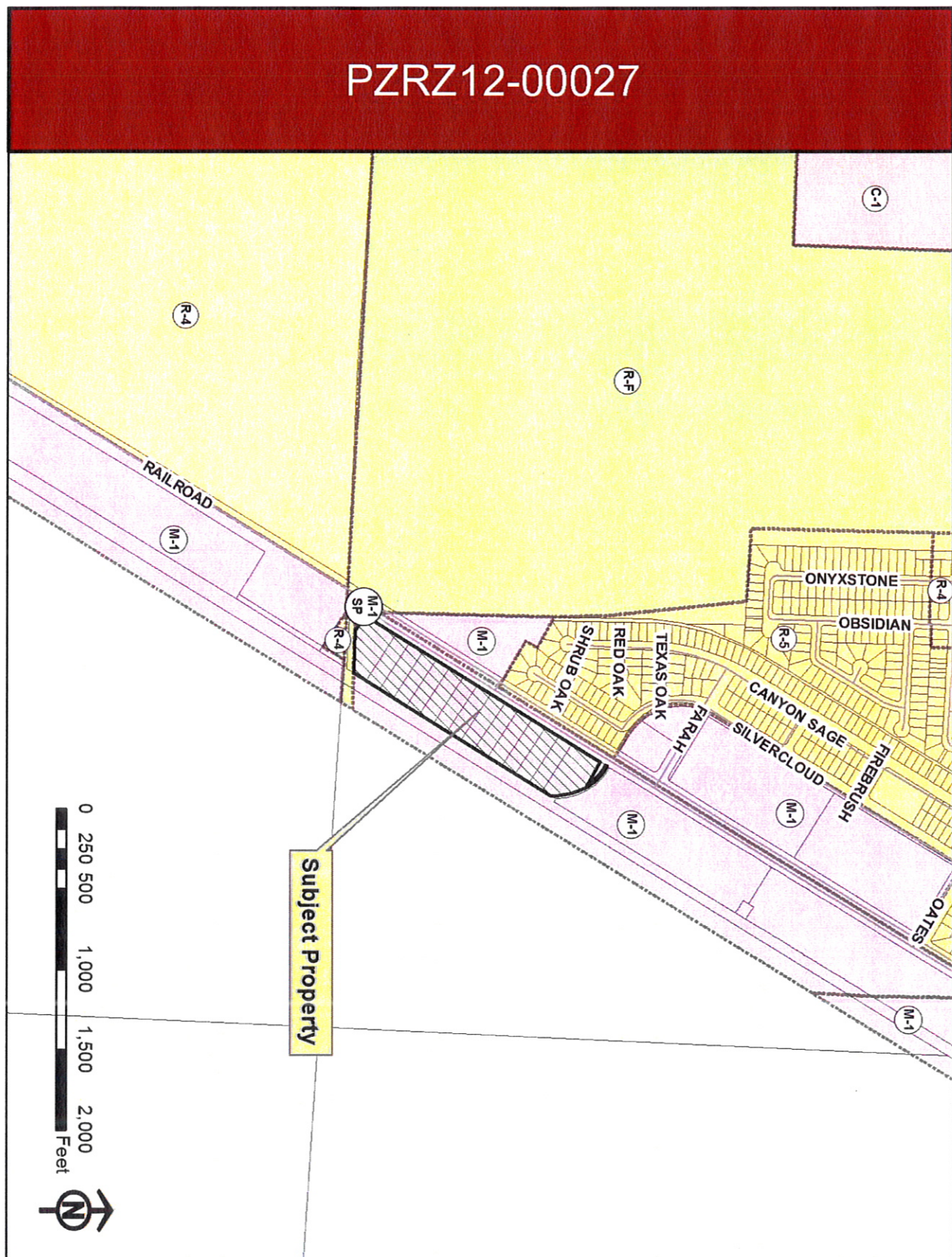
The City Plan Commission may consider the following options and additional options that it identifies when reviewing the rezoning application:

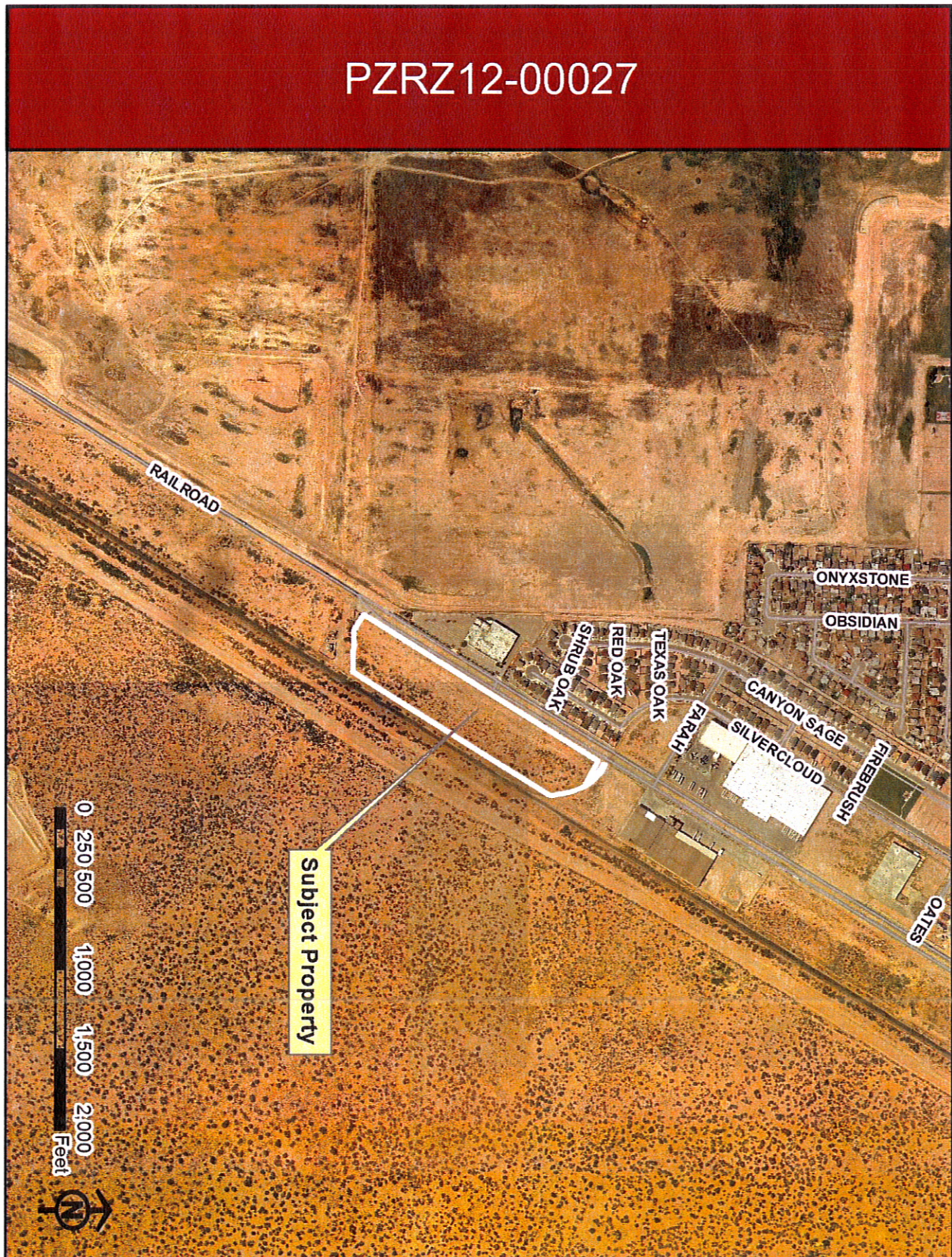
1. Recommend approval of the application finding that the special permit and detailed site development plan is in conformance with the review criteria of Plan El Paso as reflected in CPC report or other criteria that the CPC identifies from the Plan
2. Recommend approval of the application with modifications to bring the rezoning into conformance with the review criteria in Plan El Paso as reflected in CPC report or other criteria from the Plan as identified by the CPC.
3. Deny the application finding that the rezoning does not conform to the review criteria in Plan El Paso as reflected in CPC report or other criteria identified from the Plan by the CPC.

Attachments:

- Attachment 1: Zoning Map
- Attachment 2: Aerial Map
- Attachment 3: Conceptual Site Plan

ATTACHMENT 1: LOCATION MAP





ATTACHMENT 3: CONCEPTUAL SITE PLAN

